

§ 35.108

40 CFR Ch. I (7–1–08 Edition)

(2) *National program guidance.* If an applicant proposes a work plan that differs significantly from the goals and objectives, priorities, or core performance measures in the national program guidance associated with the proposed activities, the Regional Administrator must consult with the appropriate National Program Manager before agreeing to the work plan.

(3) *Use of existing guidance.* An applicant should base the grant application on the national program guidance in place at the time the application is being prepared.

(b) *Work plan requirements.* (1) The work plan is the basis for the management and evaluation of performance under the grant agreement.

(2) An approvable work plan must specify:

(i) The work plan components to be funded under the grant;

(ii) The estimated work years and the estimated funding amounts for each work plan component;

(iii) The work plan commitments for each work plan component and a time frame for their accomplishment;

(iv) A performance evaluation process and reporting schedule in accordance with § 35.115 of this subpart; and

(v) The roles and responsibilities of the recipient and EPA in carrying out the work plan commitments.

(3) The work plan must be consistent with applicable federal statutes; regulations; circulars; executive orders; and EPA delegations, approvals, or authorizations.

(c) *Performance Partnership Agreement as work plan.* An applicant may use a Performance Partnership Agreement or a portion of a Performance Partnership Agreement as the work plan for an environmental program grant if the portions of the Performance Partnership Agreement that serve as all or part of the grant work plan:

(1) Are clearly identified and distinguished from other portions of the Performance Partnership Agreement; and

(2) Meet the requirements in § 35.107(b).

§ 35.108 Funding period.

The Regional Administrator and applicant may negotiate the length of the funding period for environmental pro-

gram grants, subject to limitations in appropriations acts.

§ 35.109 Consolidated grants.

(a) Any applicant eligible to receive funds from more than one environmental program may submit an application for a consolidated grant. For consolidated grants, an applicant prepares a single budget and work plan covering all of the environmental programs included in the application. The consolidated budget must identify each environmental program to be included, the amount of each program's funds, and the extent to which each program's funds support each work plan component. Recipients of consolidated grants must account for grant funds in accordance with the funds' environmental program sources; funds included in a consolidated grant from a particular environmental program may be used only for that program.

(b) Insular areas that choose to consolidate environmental program grants may be exempted by the Regional Administrator from requirements of this subpart in accordance with 48 U.S.C. 1469a.

EPA ACTION ON APPLICATION

§ 35.110 Time frame for EPA action.

The Regional Administrator will review a complete application and either approve, conditionally approve, or disapprove it within 60 days of receipt. This period may be extended by mutual agreement between EPA and the applicant. The Regional Administrator will award the funds for approved or conditionally approved applications when the funds are available.

§ 35.111 Criteria for approving an application.

(a) The Regional Administrator may approve an application upon determining that:

(1) The application meets the requirements of this subpart and 40 CFR part 31;

(2) The application meets the requirements of all applicable federal statutes; regulations; circulars; executive orders; and delegations, approvals, or authorizations;

Environmental Protection Agency

§ 35.114

(3) The proposed work plan complies with the requirements of § 35.107; and

(4) The achievement of the proposed work plan is feasible, considering such factors as the applicant's existing circumstances, past performance, program authority, organization, resources, and procedures.

(b) If the Regional Administrator finds the application does not satisfy the criteria in paragraph (a) of this section, the Regional Administrator may either:

(1) Conditionally approve the application if only minor changes are required, with grant conditions necessary to ensure compliance with the criteria, or

(2) Disapprove the application in writing.

§ 35.112 Factors considered in determining award amount.

(a) After approving an application under § 35.111, the Regional Administrator will consider such factors as the applicant's allotment, the extent to which the proposed work plan is consistent with EPA guidance and mutually agreed upon priorities, and the anticipated cost of the work plan relative to the proposed work plan components, to determine the amount of funds to be awarded.

(b) If the Regional Administrator finds the requested level of funding is not justified or the work plan does not comply with the requirements of § 35.107, the Regional Administrator will attempt to negotiate a resolution of the issues with the applicant before determining the award amount. The Regional Administrator may determine that the award amount will be less than the amount allotted or requested.

§ 35.113 Reimbursement for pre-award costs.

(a) Notwithstanding the requirements of 40 CFR 31.23(a) and OMB cost principles, EPA may reimburse recipients for pre-award costs incurred from the beginning of the funding period established in the grant agreement if such costs would have been allowable if incurred after the award and the recipients submitted complete grant applications before the beginning of the bud-

et period. Such costs must be identified in the grant application EPA approves.

(b) The applicant incurs pre-award costs at its own risk. EPA is under no obligation to reimburse such costs unless they are included in an approved grant award.

POST-AWARD REQUIREMENTS

§ 35.114 Amendments and other changes.

The provisions of 40 CFR 31.30 do not apply to environmental program grants awarded under this subpart. The following provisions govern amendments and other changes to grant work plans and budgets after the work plan is negotiated and a grant awarded.

(a) *Changes requiring prior approval.* Recipients may make significant changes in work plan commitments only after obtaining the Regional Administrator's prior written approval. EPA, in consultation with the recipient, will document these revisions including budgeted amounts associated with the revisions.

(b) *Changes requiring approval.* Recipients must request, in writing, grant amendments for changes requiring increases in environmental program grant amounts and extensions of the funding period. Recipients may begin implementing a change before the amendment has been approved by EPA, but do so at their own risk. If EPA approves the change, EPA will issue a grant amendment. EPA will notify the recipient in writing if the change is disapproved.

(c) *Changes not requiring approval.* Other than those situations described in paragraphs (a) and (b) of this section, recipients do not need to obtain approval for changes, including changes in grant work plans, budgets, or other components of grant agreements, unless the Regional Administrator determines approval requirements should be imposed on a specific recipient for a specified period of time.

(d) *OMB cost principles.* The Regional Administrator may waive in writing approval requirements for specific recipients and costs contained in OMB cost principles.

(e) *Changes in consolidated grants.* Recipients of consolidated grants under